

REMARKS

Claims 1-5, 7-18 and 20-30¹ are all the claims pending in the application. By this Amendment, Applicants amend independent claims 1, 14 and 27. No new matter is added. Support for the amendment can be found, *e.g.*, at pages 3 and 5 of the specification as filed. Reconsideration and allowance of claims 1-5, 7-18 and 20-30 are respectfully requested in view of the following remarks.

I. Summary of the Office Action

Claims 1-5, 7-18, 20-27 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 7,000,187 to Messinger (hereinafter "Messinger") in view of U.S. Patent Application No. 2004/0268259 to Rockey et al. (hereinafter "Rockey") and further in view of U.S. Patent No. 6,437,758 to Nielsen et al. (hereinafter "Nielsen"). Claim 28 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Messinger, Rockey, Nielsen and further in view of newly found reference U.S. Patent No. 6,075,895 to Qiao et al. (hereinafter "Qiao"). Claim 30 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Messinger, Rockey, Nielsen and further in view of newly found reference U.S. Patent No. 5,661,473 to Paschal (hereinafter "Paschal"). Applicants respectfully traverse these grounds of rejection because the references fail to teach or suggest all of the elements as set forth and arranged in the claims.

¹ Applicants note, that on Form PTOL-326 and at page 2 of the Office Action, the Examiner lists claims 1-30 as currently pending. However, claims 6 and 19 are canceled in this application. Accordingly, claims 1-5, 7-18 and 20-30 are currently pending in the application.

II. Telephonic Interview

Claims 1-26 and 28-30

Applicants thank the Examiner for the courteous telephonic interview on January 23, 2009. The Statement of Substance of the Interviews is as follows:

During the interview, the rejection of independent claims 1, 14, 27 and the amendments proposed by the Applicants were discussed with respect to the prior art of record, and in particular with respect to the Nielson reference. Claim 1 recites “a tracking system detecting and recognizing in the user’s viewing direction real objects in a space located in the user’s field of vision, the tracking system comprising at least one image detection unit detecting the real objects and a computer unit processing information output by the image detection unit.” Claim 14 analogously recites “detecting and recognizing in the user’s viewing direction real objects in a space located in the user’s field of vision, comprising detecting the real objects and processing information therefrom.”

The Examiner acknowledges that Messinger and Rockey do not teach the above noted features of claims 1, 14 but contends that Nielson cures this deficiency. *See* pages 3, 4 and 8 of the Office Action. Specifically, the Examiner argues in the Office Action that real objects in space that are detected and recognized, as recited in claims 1 and 14, allegedly correspond to the user’s head movement [sic] and user’s eyes, as taught by Nielson. *See* page 8 of the Office Action.

In the telephonic interview, Applicants’ representatives submitted that the alleged real objects in Nielson (the user’s eye and head) are clearly not objects in the user’s field of vision, as recited in claims 1 and 14, because a person of ordinary skill in the art would relate the

originating point of the user's field of vision to the user's eyes. As a consequence, the user's eyes and also the user's head would not be "objects in a space located in the user's field of vision."

Moreover, Applicants' representatives argued that the gaze-tracking device in Nielson is attached to a computer close to the display, at which the user looks (*see* FIG. 2) and vis-à-vis to the user's head and eyes (*see* col. 5, lines 62-62 and FIG. 2). Therefore, the user's eyes and head are detected or recognized in Nielson in a direction other than the viewing direction of the user.

The viewing direction of the gaze-tracking device in Nielson never coincides with the viewing direction of the user, since the eyes and head are directed towards the computer in order to be detected and recognized by the gaze-tracking system. Indeed, since the gaze-tracking device, by definition, must track the user's gaze, Nielson teaches away from "a tracking system detecting and recognizing in the user's viewing direction real objects in a space located in the user's field of vision," as recited in claim 1 and as analogously recited in claim 14.

The Examiner agreed with Applicants' position and indicated that the proposed amendments will tentatively overcome the rejections of the independent claims based on Messinger in view of Rockey and Nielson. However, further search might be necessary.

Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejections of independent claims 1 and 14.

Claims 2-5, 7-13, 15-18, 20-26 and 28-30 depend from claims 1 and 14, respectively. Qiao and Paschal do not remedy the deficiencies of Messinger in view of Rockey and Nielson. Thus, claims 2-5, 7-13, 15-18, 20-26 and 28-30 are patentable at least by virtue of their dependencies.

Claim 27

Independent claim 27 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Messinger, Rockey and further in view of Nielsen.

During the interview, dependent claims 28-30 were discussed. Claims 28-30 depend from claim 1 and further define real objects in space, as recited in previously presented claim 1. The Examiner agreed that the amendment of independent claim 1 would also overcome the rejection of dependent claims 28-30.

On the other hand, Applicant's representatives argued that claims 28-30 are patentable over the prior art of records even without amending claim 1. For example, claim 30 recites "real objects in the space [which] comprise at least one tangible machine with a barcode or a label." The Examiner acknowledges that Messinger in view of Rockey and Nielsen does not disclose or suggest this feature of claim 30 but contends that Paschal cures the deficiency. *See* page 7 of the Office Action.

As discussed above, according to the Examiner, Nielson allegedly teaches "multiple real objects in space such as head movement [sic], and user's eyes." *See* page 8 of the Office Action. However, Applicants' representatives submitted, and the Examiner agreed, that replacing a person's eye and head in Nielson with a vehicle or mobile reader of Paschal would change the principle of operation of Nielson because the tracking device in Nielson tracks only the eye and head of the user. The tracking system in Nielson, however, would not work if directed towards other real objects in space, such as vehicles, in order to detect their movement. Moreover, there is no basis in claim 1, actual or alleged, for re-defining the recited "real objects in space" for the limitations recited in the dependent claims.

Claim 27 recites analogous features as claim 1. Accordingly, Applicants incorporate the subject matter of claim 30 into claim 27 and respectfully request the Examiner to reconsider and withdraw the rejection of claim 27 under 35 U.S.C. § 103(a).

Entry and consideration of this Amendment are respectfully requested.


It is respectfully submitted that the instant STATEMENT OF SUBSTANCE OF INTERVIEW complies with the requirements of 37 C.F.R. §§1.2 and 1.133 and MPEP §713.04.

II. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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